

OFFICE OF THE
MAYOR

CITY OF JACKSONVILLE BEACH, FLORIDA 32250 • 904/247-6270

ORIGINAL

EX PARTE OR LATE FILED

July 28th, 1999

RECEIVED

AUG 5 - 1999

FCC MAIL ROOM

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: *Ex Parte* Filing in Cases WT 99-217; CC96-98 /

Dear Ms. Salas:

Please do not adopt the rule proposed in these cases allowing any phone company to serve any tenant of a building and to place their antenna on the building roof.

In some states 70 or more new phone companies have been certificated to provide services. Add in the wireless phone companies and under this rule we may have 100 companies allowed to place their wires in a building, and their antennas on the roof - all without the landlord's permission.

Also, it is our opinion that the FCC lacks the authority to do this. It would violate basic property rights - a landlord, city or condominium has the right to control who comes on their property. Congress did not give the FCC the authority to condemn space for 100 phone companies in every building in the country.

In addition, we are concerned that the FCC should not preempt state and local building codes, zoning ordinances, environmental legislation and other laws affecting antennas on roofs. Zoning and building codes are purely matters of state and local jurisdiction.

For example, zoning laws are matters of local concern which ensure compatibility of uses and preserve property values and the character of our communities. We may restrict the numbers, types, locations, size and aesthetics of antennas on buildings (such as requiring them to be property screened) to achieve these legitimate goals, yet see that needed services are provided. This requires us to balance competing concerns.

On rights of way, local management of them is essential to protect the public health, safety, and welfare. Congress has specifically prohibited FCC from acting in this area.

Finally, we believe the telephone providers' complaints about rights-of-way management and fees are overblown, as shown by the small number of court cases on this - only about a dozen nationwide in the three years since 1966. With 38,000 municipalities nationwide and thousands of phone companies this number of cases shows that the system is working, not that it is broken.

For these reasons, please reject the proposed rule and take no action on rights-of-way and taxes.

Sincerely,

A handwritten signature in cursive script that reads "Bob D. Marsden".

Bob D. Marsden
Mayor

CC: Florida Congressional Delegation
BDM:mjs